



**Billing Code: 8070-01-P**

## **FEDERAL HOUSING FINANCE AGENCY**

**[No. 2013-N-03]**

### **No FEAR Act Notice**

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** Notice.

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**SUMMARY:** The Federal Housing Finance Agency (FHFA or agency) is providing notice to all its employees, former employees, and applicants for employment about the rights and remedies that are available to them under the Federal antidiscrimination laws and whistleblower protection laws. This notice fulfills FHFA's notification obligations under the Notification and Federal Employees Antidiscrimination Retaliation Act as implemented by Office of Personnel Management regulations.

**FOR FURTHER INFORMATION CONTACT:** Nancy Burnett, Acting Associate Director of the Office of Minority and Women Inclusion, [Nancy.Burnett@fhfa.gov](mailto:Nancy.Burnett@fhfa.gov), (202) 649-3017; Brian Guy, Manager of EEO Services, [Brian.Guy@fhfa.gov](mailto:Brian.Guy@fhfa.gov), (202) 649-3019; or Janice Kullman, Associate General Counsel, [Janice.Kullman@fhfa.gov](mailto:Janice.Kullman@fhfa.gov), (202) 649-3077 (not toll-free numbers), Federal Housing Finance Agency, 400 Seventh Street, SW., Washington, DC 20024. The telephone number for the Telecommunications Device for the Deaf is (800) 877-8339.

**SUPPLEMENTARY INFORMATION:** On May 15, 2002, Congress enacted the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002,

which is now known as the No FEAR Act (No FEAR Act), (Public Law 107-174). One purpose of the No FEAR Act is to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws. In support of this purpose, Congress found that agencies cannot be run effectively if those agencies practice or tolerate discrimination.

The No FEAR Act also requires Federal agencies to inform Federal employees, former Federal employees, and applicants for Federal employment of the rights and protections available to them under Federal antidiscrimination and whistleblower protection laws.

### **Establishment of a New Independent Agency**

Effective July 30, 2008, the Housing and Economic Recovery Act of 2008 (HERA), (Public Law 110-289), established FHFA as an independent agency of the Federal Government. HERA also combined the staffs of the Office of Federal Housing Enterprise Oversight (OFHEO), the Federal Housing Finance Board (FHFB), and the Government-Sponsored Enterprise mission office of the Department of Housing and Urban Development. Although each predecessor agency published its own No FEAR Act notice during 2006 (See 71 FR 63761 (Oct. 31, 2006) and 71 FR 70525 (Dec. 5, 2006)), FHFA is now publishing its own notice to affirm its commitment to the requirements of the No FEAR Act.

### **Antidiscrimination Laws**

A Federal agency cannot discriminate against an employee or applicant with respect to the terms, conditions, or privileges of employment on the basis of race, color, religion, sex, national origin, age, disability, marital status, or political affiliation.

Discrimination on these bases is prohibited by one or more of the following statutes:

5 U.S.C. 2302(b)(1), 29 U.S.C. 206(d), 29 U.S.C. 631, 29 U.S.C. 633a, 29 U.S.C. 791, and 42 U.S.C. 2000e-16.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin, or disability, you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action, before you can file a formal complaint of discrimination with your agency. See, e.g., 29 CFR 1614. If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 calendar days of the alleged discriminatory action. If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) (see contact information below). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through your agency's administrative or negotiated grievance procedures, if such procedures apply and are available.

### **Whistleblower Protection Laws**

A Federal employee with authority to take, direct others to take, recommend, or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule, or regulation; gross mismanagement, gross waste of

funds, an abuse of authority, or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC-11) with the U.S. Office of Special Counsel at 1730 M Street NW., Suite 218, Washington, DC 20036-4505 or online through the OSC Web site at <http://www.osc.gov>.

### **Retaliation for Engaging in Protected Activity**

A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protection laws listed above. If you believe that you are the victim of retaliation for engaging in protected activity, you must follow, as appropriate, the procedures described in the Antidiscrimination Laws and Whistleblower Protection Laws sections of this notice or, if applicable, FHFA's administrative or negotiated grievance procedures in order to pursue any legal remedy.

### **Disciplinary Actions**

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee for conduct that is inconsistent with Federal antidiscrimination and whistleblower protection laws up to and including removal. If OSC has initiated an investigation under 5 U.S.C. 1214, however, according to 5 U.S.C. 1214(f), agencies must seek approval from the OSC to discipline employees for, among

other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

### **Additional Information**

For further information regarding the No FEAR Act regulations, refer to 5 CFR part 724, as well as the appropriate offices within your agency (e.g., OMWI's branch of EEO Services, Office of Human Resource Management, or Office of General Counsel). Additional information regarding Federal antidiscrimination, whistleblower protection, and retaliation laws can be found at the EEOC Web site at [http:// www.eeoc.gov](http://www.eeoc.gov) and the OSC Web site at <http://www.osc.gov>.

### **Existing Rights Unchanged**

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands, or reduces any rights otherwise available to any employee, former employee, or applicant under the laws of the United States, including the provisions of law specified in 5 U.S.C. 2302(d).

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Edward J. DeMarco,  
Acting Director, Federal Housing Finance Agency.

March 12, 2013  
Date

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